

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3 **UNITED STATES OF AMERICA,**

4 **Plaintiff,**

5 **v.**

CIVIL NO. 12-2039 (GAG)

6 **COMMONWEALTH OF PUERTO RICO,**
7 **et al.,**

8 **Defendants.**

9 **ORDER re: Authority of Health Department Personnel to Perform Arrests in light of Police**
10 **Reform Agreement**

11 The Court takes judicial notice of the emergency regulation issued on August 21, 2020 by
12 the Secretary of Health. The same recognizes that pursuant to Article 27 of Law 81 of 1912, as
13 amended, health department inspectors and personnel may arrest persons who violate
14 Commonwealth health laws, rules and regulations, and then turn them over to the police. The
15 emergency regulation also notes that such violations constitute misdemeanor offenses as per Article
16 33 of Law 81. More so, the emergency regulation provides for administrative fines.

17 It is unclear to the Court whether the Secretary of Health pursuant to the August 21, 2020
18 emergency regulation, and in the context of the Covid-19 pandemic, contemplates merely fining
19 violators of health laws, rules or regulations, or rather that they be arrested. For example, tourist X
20 is walking in the Condado area without a mask. She walks into a Burger King and does not sanitize
21 her hands. Will she be fined? Will she be arrested? Another example. A group of 20-plus college
22 students are at the Alambique beach in Isla Verde not wearing masks, nor engaging in social
23 distancing. Will they be fined? Or arrested?

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Civil No. 12-2039 (GAG)

1 In light of the above, as well as, the utmost importance of strictly enforcing health measures
2 during the Covid-19 pandemic, the Court hereby instructs the federal monitor to immediately meet
3 with USDOJ, PRPB and Health Department officials to address the matter. The same needs to be
4 **immediately clarified**. If Health Department officials are indeed going to be conducting arrests,
5 their actions must conform to the parameters of the Police Reform Agreement. This is analogous to
6 correctional officers, as well as national guard personnel performing traditional law enforcement
7 activity. See Order of July 18, 2019 at Docket No. 1288 (“To comply with the Reform Agreement
8 any non-PRPB personnel [performing traditional law enforcement activity] must at all times adhere
9 to all conditions established in the agreement.”); Order of April 3, 2020 at Docket No. 1443
10 (extending July 18, 2019 Order in light of the Covid-19 pandemic to “any non-PRPB personnel that
11 the Commonwealth may need to employ in order to protect the life, safety and property of its
12 citizens”).

13 **SO ORDERED.**

14 In San Juan, Puerto Rico this 26th of August, 2020.

15 *s/ Gustavo A. Gelpi*
16 GUSTAVO A. GELPI
17 United States District Judge
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